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December 14, 2004

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ONLY ADMITTED
▽CA, ‡IL, □VA, °NJ & PA. •CTThe Honorable Thomas P. Griesa
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007-1312Re: *In re Elevator Antitrust Litigation (04-CV-01178-TPG)* –
In re Elevator & Escalator Antitrust Litigation (MDL Docket No. 1644)

Dear Judge Griesa:

We are co-lead counsel in the consolidated action before Your Honor pursuant to Your Honor's Orders of August 27 and September 16, 2004.

We are pleased to advise Your Honor that the Judicial Panel on Multidistrict Litigation by Order filed December 7, 2004, has transferred the related cases to the United States District Court for the Southern District of New York and has assigned the cases to Your Honor for consolidated pre-trial proceedings. A copy of the Order of the Judicial Panel is enclosed.

In addition, on behalf of plaintiffs in the New York cases, we request that Your Honor hold a conference not later than January 15, 2005, if Your Honor is available and there is a date convenient to the Court. The purpose of the conference would be to establish a schedule for discovery, the motion for class certification and any motions that may be addressed to the pleadings.



WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP

Honorable Thomas P. Griesa
December 14, 2004
Page 2

By way of background, following the consolidation of the New York cases, Your Honor scheduled a status conference for, we believe, in late September 2004. Thereafter, upon considering the pending proceedings before the Multidistrict Panel, Your Honor's Chambers advised us that the Court had decided to postpone the conference pending the decision by the Panel.


Pursuant to Your Honor's Order of September 16, 2004, plaintiffs have served and filed a consolidated complaint. Although defendants' time to respond to that complaint expires December 15, 2004, by Stipulation, a copy of which is enclosed, plaintiffs have agreed to provide defendants until January 15, 2005, to respond to the consolidated complaint. Defendants have indicated to us that they wish Your Honor to direct that they need not respond to any complaint in the transferred actions until there is a status conference. We do not object. However, we do object to delay beyond January 15, 2005 for responses to the consolidated complaint before Your Honor.

In addition, we are of the view that only those defendants who have made appearances should be provided relief by the Court. Those defendants who are contesting jurisdiction should advise us and the Court clearly.

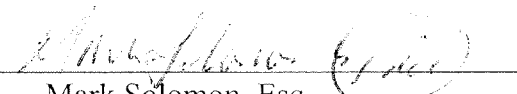
No discovery has been commenced in these actions in large part because defendants have declined to engage in a Rule 26 conference prior to the decision of the Panel and a conference before the Court.

Respectfully submitted,

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& Herz LLP***

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